

# **SANTA FE COUNTY**

## **REQUEST FOR PROPOSALS**



### **MEDICAL WASTE COLLECTION AND DISPOSAL SERVICES**

**RFP# 2015-0032-SFC/MM**

**SEPTEMBER 2014**

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## **I. ADVERTISEMENT**

### **MEDICAL WASTE COLLECTION & DISPOSAL SERVICES**

#### **RFP# 2015-0032-SFC/MM**

The Santa Fe County is requesting proposals from qualified and licensed firms for the purpose of procuring medical waste collection and disposal. Services shall include packaging, collection and disposal of regulated medical waste from various County Departments on a pre-arranged schedule. All proposals submitted shall be valid for ninety (90) days subject to action by the County. Santa Fe County reserves the right to reject any and all proposals in part or in whole. A completed proposal shall be submitted in a sealed container indicating the proposal title and number along with the Offeror's name and address clearly marked on the outside of the container.

**All proposals must be received by 10:00 AM (MDT) on October 22, 2014 at the Santa Fe County Purchasing Division, 142 W. Palace Avenue (Second Floor), Santa Fe, NM 87501.**

By submitting a proposal for the requested services each Offeror is certifying that their proposal complies with regulations and requirements stated within the Request for Proposals.

A **Pre-Proposal Conference** will be held on **Wednesday, October 1, 2014 at 3:00 PM (MDT)** at the Santa Fe County Fire Department, 35 Camino Justicia, Santa Fe, New Mexico 87508. Attendance at the Pre-Proposal Conference is not mandatory but attendance is strongly encouraged.

**EQUAL OPPORTUNITY EMPLOYMENT:** All qualified Offerors will receive consideration of contract(s) without regard to race, color, religion, sex, national origin, ancestry, age, physical and mental handicap, serious mental condition, disability, spousal affiliation, sexual orientation or gender identity.

Request for proposals will be available by contacting Maricela Martinez, Procurement Specialist, Senior, 142 W. Palace Avenue (Second Floor), Santa Fe, New Mexico 87501, by telephone at (505) 992-9864 or by email at [mcmartinez@santafecountynm.gov](mailto:mcmartinez@santafecountynm.gov) or on our website at [http://www.santafecountynm.gov/asd/current\\_bid\\_solicitations](http://www.santafecountynm.gov/asd/current_bid_solicitations)

**PROPOSALS RECEIVED AFTER THE DATE AND TIME SPECIFIED ABOVE WILL NOT BE CONSIDERED AND WILL BE REJECTED BY SANTA FE COUNTY.**

Santa Fe County  
Purchasing Division  
Publish: September 21 & 22, 2014

## II. CONTRACT OBJECTIVES

### A. PURPOSE OF THIS REQUEST FOR PROPOSAL

Santa Fe County provides multiple Health Care and Public Safety services throughout the County. Some of these services include health, dental and emergency care to the public and incarcerated individuals.

Santa Fe County is requesting proposals from licensed, qualified companies for the packaging, collecting, transporting and disposing of regulated medical waste, and Resource Conservation and Recovery Act (RCRA) hazardous waste from various Santa Fe County Departments.

### B. SCOPE OF WORK

Santa Fe County requires the packaging, collection and disposal of regulated medical waste at the following County facilities:

1. Santa Fe County Adult Detention Facility, 4312 NM State Highway 14, Santa Fe, N.M. 87508
2. Santa Fe County Youth Development Facility, 4250 Airport Road, Santa Fe, N.M. 87505
3. Santa Fe County Sheriff's Office, 35 Camino Justicia, Santa Fe, N.M. 87507
4. Santa Fe County Community Services Department, 2052 Galisteo Street, Santa Fe, N.M. 87505
5. Santa Fe Fire Department
  - a. Med 50 - 17919 US 84/285
  - b. Med 60 – 37 Rancho Viejo Blvd., Santa Fe, N.M. 87508
  - c. Med 61 – 58 County Road 62, Santa Fe, N.M. 87505
  - d. Med 70 – 1 Municipal Way, Edgewood, N.M. 87505
  - e. Med 80 – 645 Old Las Vegas Highway, Santa Fe, N.M. 87505

The Offeror shall:

- A. Be registered with New Mexico Environment Department in accordance with Hazardous Waste Act HWA Chapter 74 Article 4 NMSA 1978.
- B. Provide County staff with compliance training on federal, state and local regulations for the disposal of all medical waste. The training shall include segregation, packaging, labeling and marketing, storage and tracking of all medical waste.
- C. Provide packaging for the proper disposal of medical waste. The Offeror shall also be in compliance with the Department of Transportation (DOT) regulations (49 CFR 173.197) that is rigid, leak resistant, impervious to moisture, strong enough to prevent tearing or busting under normal conditions of use and handling, sealed to prevent leakage during transportation and puncture resistant for sharps.

- D. Provide transporting services that are compliant with New Mexico Statutes Act 1978 65-3.13 and the Federal Solid Waste Disposal Act of 1965 [42 U.S.C. Section 6901 et seq.] all waste must be properly labeled; recordkeeping must be up to date with a description, their source and delivery points.
- E. Respond to the on-call service within five (5) days of the department pick up request.
- F. Return to all Santa Fe County Facilities within two weeks if the staff was not on-site for the regularly scheduled pick-up.
- G. Report any incident involving medical waste. This includes but not limited to personal injury, contamination and death; fire breakage and spillage in accordance with US Government Code of Federal Regulations 49 CFR 171.15 & 171.16.
- H. Collect, transport, treat and dispose of all accepted regulated medical waste to include:
  - a. Sharps – any object contaminated with a pathogen or that may become contaminated with a pathogen through handling or during transportation and also capable of cutting or penetrating skin or a packaging material. Examples include needles, syringes, scalpels, broken glass, culture slides, broken capillary tubes, broken ridged plastic and exposed ends of dental wires.
  - b. Regulated Medical Waste of Clinical Waste or (Bio) Medical Waste-a waste or reusable material derived from the medical treatment of an animal or human, which includes the production and testing of biological products.
- I. Collect, transport, treat and dispose of all accepted medical waste which must be identified and segregated for incineration to include:
  - a. Trace chemotherapy contaminated waste – Resource Conservation & Recovery Act (RCRA) empty drug vials, syringes, and needles, spill kits, IV tubing and bags, contaminated gloves, gowns and related materials as defined in applicable laws, rules, regulations or guidelines.
  - b. Pathological Waste – Human of animal body parts, organs, tissues and surgical specimen (decanted of formaldehyde, formalin or other preservatives as required by hazardous waste rules).
  - c. Non-RCRA Pharmaceuticals – Must be characterized and certified as non-RCRA hazardous material by the generator. Excludes all DEA scheduled drugs, including controlled substances.

The County shall:

1. Ensure that all County personnel are properly trained in the certified procedures for the packaging and documentation of transported regulated medical waste.
2. Ensure that all County personnel understand the rules regarding proper identification, classification, segregation and packaging of regulated medical waste.
3. Be solely responsible for properly segregating, packaging and labeling of regulated medical waste for transport.

C. QUALIFICATIONS

Offeror shall provide adequate evidence that they have all permits, licenses and experience to perform this disposal service. Santa Fe County shall have the right to reject the proposals of any vendor who is unable to satisfy any and all qualifications listed within scope of work.

D. INSURANCE REQUIREMENTS

The insurance required by Offeror are listed below.

1. General Conditions. Contractor shall submit evidence of insurance as is required herein. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico.
2. General Liability Insurance, Including Automobile. Contractor shall procure and maintain during the life of this Agreement a comprehensive general liability and automobile insurance policy with liability limits in amounts not less than \$1,000,000 combined single limits of liability for bodily injury, including death, and property damage for any one occurrence. Said policies of insurance shall include coverage for all operations performed for County by Contractor; coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment, both on and off work; and contractual liability coverage under which this Agreement is an insured contract. County of Santa Fe shall be a named additional insured on the policy.
3. Workers' Compensation Insurance. Contractor shall comply with the provisions of the Workers' Compensation Act.
4. Professional Liability Insurance. The Contractor shall procure and maintain during the life of this Agreement a Professional Liability Insurance.
5. Increased Limits. If, during the life of this Agreement, the Legislature of the State of New Mexico increases the maximum limits of liability under the Tort Claims Act (NMSA 1978, Sections 41-4-1 through 41-4-29, as amended),

Contractor shall increase the maximum limits of any insurance required herein.

E. PROCUREMENT MANAGER

The County has designated a Procurement Manager who is responsible for the conduct of this procurement whose name, address and telephone number is listed below. All deliveries via express carrier should be addressed as follows:

Maricela Martinez  
Santa Fe County Purchasing Division  
142 W. Palace Avenue (Second Floor)  
Santa Fe, New Mexico 87501  
Phone (505) 992-9864  
Fax (505) 989-3243  
[mcmartinez@santafecountynm.gov](mailto:mcmartinez@santafecountynm.gov)

Any inquiries or requests regarding this procurement should be submitted to the Procurement Manager in writing. Offerors may contact ONLY the Procurement Manager regarding the procurement. Other County employees do not have the authority to respond on behalf of the County.

F. DEFINITION OF TERMINOLOGY

This section contains definitions and abbreviations that are used throughout this procurement document.

“BCC” means the elected Board of County Commissioners.

“Close of Business” means 5:00 PM Mountain Standard Time or Mountain Daylight Time, whichever is in effect on the date given.

“Contract” or “Agreement” means a written agreement for the procurement of items of tangible personal property or services.

“Contractor” means a successful offeror who enters into a binding contract.

“County” means Santa Fe County.

“Determination” means the written documentation of a decision by the Procurement Manager including findings of fact supporting a decision. A determination becomes part of the procurement file.

“Desirable” The terms “may”, “can”, “should”, “preferably”, or “prefers” identify a desirable or discretionary item or factor (as opposed to “mandatory”).



“Evaluation Committee” means a body appointed by the County management to perform the evaluation of offeror proposals.

“Finalist” is defined as an offeror who meets all the mandatory specifications of this Request for Proposals and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee.

“Mandatory” The terms “must”, “shall”, “will”, “is required”, or “are required”, identify a mandatory item or factor (as opposed to “desirable”). Failure to meet a mandatory item or factor will result in the rejection of the offeror’s proposal.

“Offeror” is any person, corporation, or partnership who chooses to submit a proposal.

“Procurement Manager” means the person or designee authorized by the County to manage or administer a procurement requiring the evaluation of competitive sealed proposals.

“Purchasing Division” means the Santa Fe County Purchasing Division, Administrative Services Department.

“Request for Proposals” or “RFP” means all documents, including those attached or incorporated by reference, used for soliciting proposals.

“Responsible Offeror” means an offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services or items of tangible personal property described in the proposal.

“Responsive Offer” or “Responsive Proposal” means an offer or proposal which conforms in all material respects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to, price, quality, quantity or delivery requirements.

### III. CONDITIONS GOVERNING THE PROCUREMENT

This section of the RFP contains the schedule for the procurement, describes the major procurement events and the conditions governing the procurement.

#### A. SEQUENCE OF EVENTS

The Procurement Manager will make every effort to adhere the following schedule:

<u>Action</u>	<u>Responsibility</u>	<u>Date</u>
1. Issue of RFP	Purchasing Division	<u>Sept. 21 &amp; 22, 2014</u>
2. Pre-Proposal Conference	County/Offerors	<u>Oct. 1, 2014</u>
3. Acknowledgement Form Due	Offerors	<u>Oct. 1, 2014</u>
4. Deadline to Submit Additional Questions	Offerors	<u>Oct. 8, 2014</u>
5. Response to Written Questions	Purchasing Division	<u>Oct. 10, 2014</u>
6. Submission of Proposal	Offerors	<u>Oct.22, 2014</u>
7. Proposal Evaluation	Evaluation Committee	<u>Oct. 23- 30, 2014</u>
8. Selection of Finalists (If Applicable)	Evaluation Committee	<u>Nov. 2014</u>
9. Best and Final Offers	Offeror	<u>Nov. 2014</u>
10. Oral Presentations (If Applicable)	Evaluation Committee Offeror	<u>Nov. 2014</u>
11. Finalize Contract	Purchasing Division	<u>Nov. 2014</u>
12. Contract Award	Purchasing Division	<u>Nov. 2014</u>

Note: If the Evaluation Committee makes a selection at the Selection of Finalists, events 8-10 will not apply

## B. EXPLANATION OF EVENTS

The following paragraphs describe the activities listed in the sequence of events shown in Section III, Paragraph A.

### 1. Issue RFP

This RFP is being issued by the Santa Fe County Purchasing Division.

### 2. Pre-Proposal Conference, if applicable

A Pre-Proposal Conference is scheduled for on the date indicated in the "Sequence of Events" at Section III.A. Questions may be submitted at the Pre-Proposal Conference and after up until the date indicated in the "Sequence of Events" at Section III.A. A public log will be kept of the names of potential offerors that attended the pre-proposal conference. Attendance at the pre-proposal conference is not mandatory but attendance is strongly encouraged.

### 3. Acknowledgement of Receipt Form Due

A potential Offeror should hand-deliver, return by facsimile or e-mail the "Acknowledgement of Receipt Form" provided as Appendix A to have its name and firm placed on the procurement distribution list. The form should be signed by an authorized representative of the organization, dated and returned by close of business on the date indicated in the "Sequence of Events" at Section III.A.

The procurement distribution list will be used for the distribution of written responses to questions and any RFP addendums.

### 4. Deadline to Submit Additional Written Questions

Potential Offerors may submit written questions regarding this RFP until the close of business on the date indicated in the "Sequence of Events" at Section III.A. All written questions must be addressed to the Procurement Manager, listed in Section II, Paragraph E and sent via facsimile or e-mail. **Any contact with any other County staff member other than the Procurement Manager named in this solicitation will be grounds for rejection of a proposal.**

### 5. Response to Written Questions

Written responses to written questions and any RFP addenda will be distributed on the date indicated in the "Sequence of Events" at Section III.A, to all potential Offerors whose names appear on the procurement distribution list. Additional written requests for clarification of distributed answers or addenda must be received by the Procurement Manager no later than one (1) day after the answers or addenda were issued.

6. Submission of Proposal

**ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN 10:00 A.M. (MDT) ON October 22, 2014.** Proposals received after this deadline will not be accepted. The date and time of receipt will be recorded on each proposal. Proposals must be addressed and delivered to the Procurement Manager at the address listed in Section II, D. Proposals must be sealed and labeled on the outside of the package to clearly indicate that they are in response to the County's Request for Proposals 2015-0032-SFC/MM and refer to the RFP number. Proposals submitted by facsimile or other electronic means will not be accepted.

Proposals must be delivered to:

Maricela Martinez, Procurement Specialist Senior  
Santa Fe County Purchasing Division  
142 W. Palace Avenue (Second Floor)  
Santa Fe, New Mexico 87501

A public log will be kept of the names of all offeror organizations that submitted proposals. Pursuant to NMSA 1978, Section 13-1-116, the contents of any proposal shall not be disclosed to competing offerors prior to contract award.

7. Proposal Evaluation

The evaluation of proposals will be performed by an Evaluation Committee appointed by the Procurement Manager. This process will take place during the timeframe indicated in the "Sequence of Events" at III.A. During this time, the Procurement Manager may initiate discussions with Offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals, but proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors.

8. Selection of Finalists (If Applicable)

The Evaluation Committee may select and the Procurement Manager may notify the Finalist Offerors on the date indicated in the "Sequence of Events" at Section III.A. Only Finalists will be invited to participate in the subsequent steps of the procurement if the Finalist process is used.

9. Best and Final Offers from Finalists (If Applicable)

Finalist Offerors may be asked to submit revisions to their proposals for the purpose of obtaining best and final offers by the date indicated in the "Sequence of Events" at Section III.A.

10. Oral Presentation by Finalists (If Applicable)

Finalist Offerors may be required to present their proposals to the Evaluation Committee. The Procurement Manager will schedule the time for each Offeror presentation. All Offeror presentations will be held at the Santa Fe County Purchasing Division, 142 W. Palace Avenue (Second Floor), Santa Fe, New Mexico. Each presentation will be limited to one (1) hour in duration.

11. Finalize Contract

The contract will be finalized with the most advantageous Offeror during the timeframe indicated in the "Sequence of Events" at Section III.A. In the event that mutually agreeable terms cannot be reached within the time specified, the County reserves the right to finalize a contract with the next most advantageous Offeror without undertaking a new procurement process.

12. Contract Award

The County anticipates awarding the contract on the date in the "Sequence of Events" at Section III.A. These dates are subject to change at the discretion of the Santa Fe County Purchasing Manager.

The contract shall be awarded to the Offeror or Offerors whose proposal is most advantageous to the County, taking into consideration the evaluation factors set forth in the RFP. The most advantageous proposal may or may not have received the most points.

13. Right to Protest

Any protest by an Offeror must be timely and in conformance with NMSA 1978, Section 13-1-172 and applicable procurement regulations. Protests must be written and must include the name and address of the protestor and the request for proposals number. It must also contain a statement of grounds for protest including appropriate supporting exhibits. The protests must be delivered to the Santa Fe County Purchasing Division:

Santa Fe County  
Attn: Procurement Office  
P.O. Box 276  
Santa Fe, New Mexico 87504

Protests will not be accepted by facsimile or other electronic means. Protests received after the deadline will not be accepted.

## C. GENERAL REQUIREMENTS

This procurement will be conducted in accordance with Chapter 13, NMSA 1978, NMAC 1.4.1 and the Santa Fe County Procurement Regulations.

### 1. Acceptance of Conditions Governing the Procurement

Offerors must indicate their acceptance of the Conditions Governing the Procurement section in the letter of transmittal. Submission of a proposal constitutes acceptance of the contract template attached hereto as Appendix D.

### 2. Incurring Cost

Any cost incurred by the offeror in preparation, transmittal, presentation of any proposal or material submitted in response to this RFP shall be borne solely by the offeror.

### 3. Prime Contractor Responsibility

Any contract that may result from this RFP shall specify that the prime contractor is solely responsible for fulfillment of the contract with the County. The County will make contract payments to only the prime contractor.

### 4. Subcontractors

Use of subcontractors must be clearly explained in the proposal, and major subcontractors must be identified by name. The prime contractor shall be wholly responsible for the entire performance whether or not subcontractors are used.

### 5. Amended Proposals

An offeror may submit an amended proposal before the deadline for receipt of proposals. Such amended proposals must be complete replacements for a previously submitted proposal and must be clearly identified as such in the transmittal letter. County personnel will not merge, collate, or assemble proposal materials.

### 6. Offerors' Rights to Withdraw Proposal

Offerors will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals. The offeror must submit a written withdrawal request signed by the offeror's duly authorized representative addressed to the Procurement Manager. The approval or denial of withdrawal requests received after the deadline for receipt of the proposals is governed by the applicable procurement regulations.

7. Proposal Offer Firm

Responses to this RFP, including proposal prices, will be considered firm for sixty (90) days after the due date for receipt of proposals or ninety (90) days after receipt of a best and final offer if one is submitted.

8. Disclosure of Proposal Contents

The proposals will be kept confidential until a contract is awarded. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for the material that is proprietary or confidential. The Procurement Manager will not disclose or make public any pages of a proposal on which the offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements.

Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal. Confidential data is normally restricted to confidential financial information concerning the offeror's organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, 57-3A-1 to 57-3A-7, NMSA 1978. The price of products offered or the cost of services proposed shall not be designated as proprietary or confidential information.

If a request is received for disclosure of data for which an offeror has made a written request for confidentiality, the Santa Fe County Procurement Manager shall examine the offeror's request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the offeror takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.

9. No Obligation

This procurement in no manner obligates Santa Fe County or any of its departments to the use of any proposed professional services until a valid written contract is awarded and approved by the appropriate authorities.

10. Termination

This RFP may be canceled at any time and any and all proposals may be rejected in whole or in part when the County determines such action to be in the best interest of the County.

11. Sufficient Appropriation

Any contract awarded as a result of this RFP process may be terminated if sufficient appropriations or authorizations do not exist. Such termination will be effected by sending written notice to the contractor. The County's decision as to whether sufficient appropriations and authorizations are available will be accepted by the contractor as final.

12. Legal Review

The County requires that all offerors agree to be bound by the General Requirements contained in this RFP. Any offeror concerns must be promptly brought to the attention of the Procurement Manager.

13. Governing Law

This procurement and any agreement with offerors that may result shall be governed by the laws of the State of New Mexico.

14. Basis for Proposal

Only information supplied by the County in writing through the Procurement Manager or in this RFP should be used as the basis for the preparation of offeror proposals.

15. Contract Terms and Conditions

The contract between the County and the Contractor will follow the format specified by the County and contain the terms and conditions set forth in Appendix D. However, the County reserves the right to negotiate with a successful offeror provisions in addition to those contained in this RFP.

Should an offeror object to any of the County's terms and conditions, as contained in this Section or in Appendix D, that offeror must propose specific alternative language. The County may or may not accept the alternative language. General references to the offeror's terms and conditions or attempts at complete substitutions are not acceptable to the County and will result in disqualification of the offeror's proposal.

Offerors must provide a brief discussion of the purpose and impact, if any, of each proposed change followed by the specific proposed alternate wording.

16. Offeror's Terms and Conditions

Offerors must submit with the proposal a complete set of any additional terms and conditions which they expect to have included in a contract negotiated with the County.



17. Contract Deviations

Any additional terms and conditions, which may be the subject of negotiation, will be discussed only between the County and the selected offeror and shall not be deemed an opportunity to amend the offeror's proposal.

18. Offeror Qualifications

The Evaluation Committee may make such investigations as necessary to determine the ability of the offeror to adhere to the requirements specified within this RFP. The Evaluation Committee will reject the proposal of any offeror who is not a responsible offeror or fails to submit a responsive offer as defined in Sections 13-1-83 and 13-1-85 NMSA, 1978, subject to Procurement Manager approval.

19. Right to Waive Minor Irregularities

The Evaluation Committee reserves the right to waive minor irregularities. The Evaluation Committee also reserves the right to waive mandatory requirements provided that all of the otherwise responsive proposals failed to meet the mandatory requirements and/or doing so does not otherwise materially affect the procurement. This right is at the sole discretion of the Evaluation Committee, subject to Procurement Manager approval.

20. Change in Contractor Representatives

The County reserves the right to require a change in contractor representatives if the assigned representatives are not, in the opinion of the County, meeting its needs adequately. Any change in contractor representative must receive prior County approval.

21. Notice

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and misdemeanor criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kick-backs.

22. County Rights

The County reserves the right to accept all or a portion of an offeror's proposal.

23. Right to Publish

Throughout the duration of this procurement process and contract term, potential offerors and contractors must secure from the County written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement or the subsequent contract. Failure to adhere to this

requirement may result in disqualification of the offeror's proposal or termination of the contract.

24. Ownership of Proposals

All documents submitted in response to this Request for Proposals shall become the property of the County. However, any technical or user documentation submitted with the proposals of non-selected offerors shall be returned after the expiration of the protest period.

25. Electronic Mail Address Recommended

A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). It is recommended that Offeror should have a valid e-mail address to receive this correspondence.

26. Preferences in Procurement by Santa Fe County

A. ***New Mexico In-state Preference.***

New Mexico law, Section 13-1-21 NMSA 1978, provides a preference in the award of a public works contract for an “**in-state resident business**”. Application of a resident business preference for any Offeror requires the Offeror to provide a copy of a valid and current certificate as a resident business. Certificates are issued by the state taxation and revenue department.

If an Offeror submits with its proposal a copy of a valid and current in-state resident business certificate, 5% of the total weight of all evaluation factors used in the evaluation of proposals may be awarded or added to the Offerors score.

Certification by the department of taxation and revenue for the resident contractor takes into consideration such activities as the business or contractor’s payment of property taxes or rent in the state and payment of unemployment insurance on employees who are residents of the state.

**OR**

B. ***New Mexico Resident Veteran Preference.***

New Mexico law, Section 13-1-22 NMSA 1978, provides a preference in the award of a public works contract for a “**resident veteran business**”. Certification by the department of taxation and revenue for the resident veteran business requires the Offeror to provide evidence of annual revenue and other evidence of veteran status.

An Offeror who wants the veteran contractor preference to be applied to its proposal is required to submit with its proposal the certification from the NM Department of Taxation and Revenue and the sworn affidavit attached hereto as Appendix C.

If an Offeror submits with its proposal a copy of a valid and current veteran resident business certificate, 10%, 8% or 7% of the total weight of all the evaluation factors used in the evaluation of proposals may be awarded or added to the Offeror's score, depending on the business' annual revenue.

**The resident business preference is not cumulative with the resident veteran business preference.**

**AND**

***B. Santa Fe County Preference***

Santa Fe County Ordinance 2012-4 provides for a **County preference** for a "Santa Fe County business." Application of the County preference in procurement requires an Offeror to obtain and provide a Santa Fe County Business Certificate issued by the Santa Fe County Procurement Manager. Certification by the Procurement Manager takes into consideration the business' corporate standing in the state, business licensure or registration, the duration of the business' primary office location and the payment of taxes.

If an Offeror submits with its proposal a copy of its Santa Fe County Business Certificate issued by the Purchasing Manager, 5% of the total weight of all the evaluation factors used in the evaluation of proposals may be awarded to the Offerors score.

The in-state, veteran or County preferences do not apply to procurement of services or goods involving federal funds or federal grant funds.

26. Double-Sided Documents

All submitted bids/proposal documents shall be double-sided, pursuant to Santa Fe County Resolution 2013-7, Adopting Sustainable Resource Management Principles, Section 2. A. Waste Reduction and Reuse..."all documents are to be double-sided, including those that are generated by outside entities using County funds and by consultants and contractors doing business with the County".

27. Living Wage

Contractor shall comply with the requirements of Santa Fe County Ordinance 2014-1 (Establishing a Living Wage).

#### **IV. RESPONSE FORMAT AND ORGANIZATION**

**A. NUMBER OF RESPONSES**

Offerors shall submit only one proposal in response to this RFP.

**B. NUMBER OF COPIES**

Offerors shall deliver one (1) original and four (4) identical copies of their proposal to the location specified in Section II, Paragraph E on or before the closing date and time for receipt of proposals. All Offeror's proposals, original and copies of proposals must be delivered to Purchasing in a sealed package. The sealed submittal must include the Offeror's name, address and the RFP number.

**C. PROPOSAL FORMAT**

All proposals shall be limited to (15) pages, with exception to professional licenses and certifications, which shall be added as appendices. The document shall be typewritten on standard 8 1/2 x 11 paper, with a font no smaller than 12 pt. pitch, with nominal 1" margins and normal line spacing. Proposals shall be placed within a binder with tabs delineating each section.

**1. Proposal Organization**

The proposal must be organized and indexed in the following format and must contain, as a minimum, all listed items in the sequence indicated.

- a) Letter of Transmittal
- b) Table of Contents
- c) Proposal Summary (optional)
- d) Response to Specifications – Evaluation Factors
- e) Price Schedule-in a separate sealed envelope
- f) Copies of Licenses, permits and letters from Government Agencies for handling, transporting and disposing of waste.

Within each section of their proposal, offerors should address the items in the order in which they appear in this RFP. All forms provided in the RFP must be thoroughly completed and included in the appropriate section of the proposal.

Any proposal that does not adhere to these requirements may be deemed non-responsive and rejected on that basis.

The proposal summary may be included by offerors to provide the Evaluation Committee with an overview of the technical and business features of the proposal; however, this

material will not be used in the evaluation process unless specifically referenced from other portions of the offeror's proposal.

Offerors may attach other materials that they feel may improve the quality of their responses. However, these materials should be included as items in a separate appendix.

2. Letter of Transmittal

Each proposal must be accompanied by a letter of transmittal. The letter of transmittal MUST:

- a) Identify the submitting organization;
- b) Identify the name and title of the person authorized by the organization to contractually obligate the organization;
- c) Identify the name, title and telephone number of the person authorized to negotiate the contract on behalf of the organization;
- d) Identify the names, titles and telephone numbers of persons to be contacted for clarification;
- e) Explicitly indicate Acceptance of the Conditions Governing the Procurement stated in Section III, Paragraph C.1;
- f) Be signed by the person authorized to contractually obligate the organization;
- g) Acknowledge receipt of any and all amendments to this RFP.

## V. SPECIFICATION

Offerors should respond in the form of a thorough narrative to each mandatory specification. The narratives along with required supporting materials will be evaluated and awarded points accordingly.

### A. INFORMATION

#### Time Frame

The contract is scheduled to begin in or around November. Santa Fe County intends on awarding a contract with a term of one (1) year with three (3) renewal periods, not to exceed four years.

### B. EVALUATION FACTORS

A brief explanation of each mandatory specification is listed below. Information for one evaluation criteria may be duplicated for different evaluation criteria. Offerors are encouraged to fully address each category completely, as points are assigned for responses to each. Responses shall include information and past experience specific to the Offeror and Offerors team submitting the proposal. An Offeror's discussion of each evaluation criteria should be sufficiently detailed to inform and educate the Evaluation Committee members.

#### 1) Introduction

- Provide a brief history of firm, include organizations vision/mission and business philosophy;
- Describe how your company is organized to manage collecting and disposing of medical waste;
- Provide a summarization of your medical waste collection and disposal services offered.

#### 2) Evidence of understanding scope of work

- Provide a detailed response and understanding of the requested scope of work;
- Explain in detail the training your company will provide to Santa Fe County Staff.
- Demonstrate responsiveness to the needs of your customers regarding service calls and missed scheduled pick-ups.
- Any services that cannot be provided should be noted.

3) Capacity and capability of the business to perform the work

- Provide information about the business that demonstrates the ability to provide sufficient professional competence, including any consultants, their representatives, include qualifications and experience for all personnel who will be performing the work;
- Demonstrate your experience handling medical waste and providing disposal services. Include the process of how the work will be completed in compliance with all federal, state and local regulations.

4) Past record of performance

- Demonstrate with current or past contracts where your company provided the services listed in the scope of work.
- Provide licenses, permits and letters of approval issued by Government Agencies for handling, transporting and disposing of medical waste.
- List any incidents that may have occurred over the last five years in performing the transportation and disposal of medical waste services. Include the following:
  - Any hazardous material cleanup procedures had to be followed and reported to Federal and/or State regulatory agencies;
  - Any findings by the Department of Transportation for this period.
- Describe any difficulties with providing this type of service. Explain how you addressed the difficulties.
- Provide three (3) external business references. The minimum information to be included is:
  - Name of company services were provided for;
  - Address of company;
  - Name of contact person including phone number and email address.

5) Price Schedule – provide your company’s price schedule for all facilities listed. Include Price Schedule in a separate sealed envelope.

## 6) Offeror’s proposal contains a valid certificate as an In-state Resident Contractor the preference in accordance with 13-4-2 NMSA 1978 will be applied.

- 7) Offeror's proposal contains a valid certificate as a Resident Veteran Contrator, the preference in accordance with 13-4-2 and 13-1-22 NMSA 1978, will be applied.
- 8) Offeror's proposal contains a valid certificate as a Santa Fe County Business, the preference in accordance with Santa Fe Ordinance #2012-4, will be applied.

## **VI. EVALUATION OF PROPOSALS**

### **A. EVALUATION SCORING**

The County will evaluate responsive proposals and assign a score in each category, not to exceed the maximum allowed score for that category, as determined through the Offeror's attention to the criteria detailed in the following sections. The amount of discussion to be applied to each listed topic is an individual choice of the Offeror, however, discussion should be detailed enough to inform and educate evaluators.

Proposals will be scored based upon a comparison of the information submitted by each Offeror against the evaluation criteria outlined below. If an Offeror provides a valid certificate of resident business, preference will be applied in accordance with § 13-1-21, as amended, of the Procurement Code.

#### **Evaluation Factors**

- |    |  |                   |
|----|--|-------------------|
| 1) | Organization.....                            | <b>150 points</b> |
| 2) | Evidence of understanding scope of work..... | <b>400 points</b> |
| 3) | Capacity and capability.....                 | <b>225 points</b> |
| 4) | Past record of performance.....              | <b>225 points</b> |

**TOTAL POINTS.....1000 points**

#### **PREFERENCES**

If a proposal contains In-State Resident Contractor Certificate or Resident Veterans Contractor Certificate and/or Santa Fe County Business Certificate, the applicable preference will be applied.

- |    |   |                  |
|----|---|------------------|
| 5) | Proposal contains a valid N.M. Resident Contractor Certificate..... | <b>50 points</b> |
|----|---|------------------|

**OR**

- |    |  |                             |
|----|--|-----------------------------|
| 6) | Proposal contains valid Resident Veteran Contractor Certificate..... | <b>70, 80 or 100 points</b> |
|----|--|-----------------------------|

**AND**

- |    |   |                  |
|----|---|------------------|
| 7) | Proposal contains a valid Santa Fe County Business Certificate..... | <b>50 points</b> |
|----|---|------------------|



B. EVALUATION PROCESS

The evaluation process will follow the steps listed below:

1. All Offeror proposals will be reviewed for compliance with the mandatory specifications stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.
2. The Procurement Manager may contact the Offeror for clarification of the response as specified in Section III, Paragraph B.7.
3. The Evaluation Committee may use other sources of information to perform the evaluation as specified in Section III, Paragraph C.18.
4. Responsive proposals will be evaluated on the factors in Section V that have been assigned a point value. The responsible Offerors with the highest scores will be selected as finalist Offerors based upon the proposals submitted. Finalist Offerors who are asked or choose to submit revised proposals for the purpose of obtaining best and final offers will have their points recalculated accordingly. Points awarded from the oral presentations will be added to the previously assigned points to attain final scores. The responsible Offeror whose proposal is most advantageous to the County, taking into consideration the evaluation factors in Section VI, will be recommended for contract award as specified in Section III, Paragraph B.12. Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

**APPENDIX A****ACKNOWLEDGEMENT OF RECEIPT FORM****MEDICAL WASTE COLLECTION AND DISPOSAL SERVICES****RFP# 2015-0032-SFC/MM**

In acknowledgement of receipt of this Request for Proposal the undersigned agrees that he/she has received a complete copy, beginning with the title page and table of contents, and ending with Appendix D.

The acknowledgement of receipt should be signed and returned to the Procurement Manager no later than close of business on **October 1, 2014**. Only potential offerors who elect to return this form completed with the indicated intention of submitting a proposal will receive copies of all offeror written questions and the County's written responses to those questions as well as RFP amendments, if any are issued.

FIRM: \_\_\_\_\_

REPRESENTED BY: \_\_\_\_\_

TITLE: \_\_\_\_\_ PHONE NO.: \_\_\_\_\_

E-MAIL: \_\_\_\_\_ FAX NO.: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

This name and address will be used for all correspondence related to the Request for Proposal.

Firm does/does not (**circle one**) intend to respond to this Request for Proposals.

Maricela Martinez  
 Santa Fe County Purchasing Division  
 142 W. Palace Avenue (Second Floor)  
 Santa Fe, New Mexico 87501  
 (505) 992-9864  
 (505) 989-3243  
[mcmartinez@santafecountynm.gov](mailto:mcmartinez@santafecountynm.gov)

## APPENDIX B

### CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to the Procurement Code, Sections 13-1-28, et seq., NMSA 1978 and NMSA 1978, § 13-1-191.1 (2006), as amended by Laws of 2007, Chapter 234, any prospective contractor seeking to enter into a contract with any state agency or local public body **for medical waste collection and disposal services** must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two year period.

Furthermore, the state agency or local public body may cancel a solicitation or proposed award for a proposed contract pursuant to Section 13-1-181 NMSA 1978 or a contract that is executed may be ratified or terminated pursuant to Section 13-1-182 NMSA 1978 of the Procurement Code if: 1) a prospective contractor, a family member of the prospective contractor, or a representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or 2) a prospective contractor fails to submit a fully completed disclosure statement pursuant to the law.

The state agency or local public body that procures the services or items of tangible personal property shall indicate on the form the name or names of every applicable public official, if any, for which disclosure is required by a prospective contractor.

**THIS FORM MUST BE INCLUDED IN THE REQUEST FOR PROPOSALS AND MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.**

The following definitions apply:

**“Applicable public official”** means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

**“Campaign Contribution”** means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made

to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official's behalf for the purpose of electing the official to statewide or local office. "Campaign Contribution" includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

**"Family member"** means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law of (a) a prospective contractor, if the prospective contractor is a natural person; or (b) an owner of a prospective contractor.

**"Pendency of the procurement process"** means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

**"Prospective contractor"** means a person or business that is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person or business qualifies for a sole source or a small purchase contract.

**"Representative of a prospective contractor"** means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

Name(s) of Applicable Public Official(s) if any: \_\_\_\_\_  
(Completed by State Agency or Local Public Body)

#### DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:

Contribution Made By: \_\_\_\_\_

Relation to Prospective Contractor: \_\_\_\_\_

Date Contribution(s) Made: \_\_\_\_\_  
\_\_\_\_\_

Amount(s) of Contribution(s) \_\_\_\_\_  
\_\_\_\_\_

Nature of Contribution(s) \_\_\_\_\_  
\_\_\_\_\_

Purpose of Contribution(s) \_\_\_\_\_  
\_\_\_\_\_

(Attach extra pages if necessary)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title (position)

**--OR--**

**NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250) WERE MADE** to an applicable public official by me, a family member or representative.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title (Position)

## APPENDIX C

### RESIDENT VETERANS PREFERENCE CERTIFICATION

\_\_\_\_\_ (NAME OF CONTRACTOR) hereby certifies the following in regard to application of the resident veterans' preference to this procurement.

**Please check one box only:**

☐ I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is less than \$1M allowing me the 10% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

☐ I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$1M but less than \$5M allowing me the 8% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

☐ I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$5M allowing me the 7% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

I agree to submit a report or reports to the State Purchasing Division of the General Services Department declaring under penalty of perjury that during the last calendar year starting January 1 and ending on December 31, the following to be true and accurate:

In conjunction with this procurement and the requirements of this business application for a Resident Veteran Business Preference/Resident Veteran Contractor Preference under Sections 13-1-21 or 13-1-22 NMSA 1978, which awarded a contract which was on the basis of having such veterans preference, I agree to report to the State Purchasing Division of the General Services Department the awarded amount involved. I will indicate in the report the award amount as a purchase from a public body or as a public works contract from a public body as the case may be.

I understand that knowingly giving false or misleading information on this report constitutes a crime.

I declare under penalty of perjury that this statement is true to the best of my knowledge. I understand that giving false or misleading statements about material fact regarding this matter constitutes a crime.

\_\_\_\_\_  
(Signature of Business Representative)\*

\_\_\_\_\_  
(Date)

\*Must be an authorized signatory of the Business.

The representations made by checking the boxes constitutes a material representation by the business. Any finding that the statements are incorrect may result in denial of an award or un-award of the procurement involved.

SIGNED AND SEALED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

\_\_\_\_\_

## APPENDIX D

### PROFESSIONAL SERVICES AGREEMENT TO PROVIDE MEDICAL WASTE COLLECTION AND DISPOSAL SERVICES

**THIS AGREEMENT** is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between Santa Fe County, hereinafter referred to as “County”, a political subdivision of the State of New Mexico and \_\_\_\_\_, a \_\_\_\_\_ with a principal address located at \_\_\_\_\_, hereinafter referred to as “Contractor”.

**WHEREAS**, Santa Fe County provides multiple Health Care and Public Safety Services internally and to the public which generates various types of medical waste and Santa Fe County is required to dispose of medical waste properly;

**WHEREAS**, pursuant to NMSA 1978, Sections 13-1-112 and 13-1-117, competitive, sealed proposals were solicited via a formal request for proposals, RFP#2015-0032-SFC/MM for the provision of the professional service;

**WHEREAS**, based upon the evaluation criteria established within the request for proposals for the purposes of selecting the most qualified Offeror, the County has determined the Contractor as the most responsive and highly rated offeror;

**WHEREAS**, the County requires the service of the Contractor, and the Contractor is willing to provide these services and both parties wish to enter into this Agreement.

#### 1. SCOPE OF WORK

Contractor shall:

- A. Be registered with New Mexico Environment Department in accordance with Hazardous Waste Act HWA Chapter 74 Article 4 NMSA 1978.
- B. Provide County staff with compliance training on federal, state and local regulations for the disposal of all medical waste. The training shall include segregation, packaging, labeling and marketing, storage and tracking of all medical waste.
- C. Provide packaging for the proper disposal of medical waste. The Offeror shall also be in compliance with the Department of Transportation (DOT) regulations (49 CFR 173.197) that is rigid, leak resistant, impervious to moisture, strong enough to prevent tearing or busting under normal conditions of use and handling, sealed to prevent leakage during transportation and puncture resistant for sharps.



- D. Provide transporting services that are compliant with New Mexico Statutes Act 1978 65-3.13 and the Federal Solid Waste Disposal Act of 1965 [42 U.S.C. Section 6901 et seq.] all waste must be properly labeled; recordkeeping must be up to date with a description, their source and delivery points.
- E. Respond to the on-call service within five (5) days of the department pick up request.
- F. Return to all Santa Fe County Facilities within two weeks if the staff was not on-site for the regularly scheduled pick-up.
- G. Report any incident involving medical waste. This includes but not limited to personal injury, contamination and death; fire breakage and spillage in accordance with US Government Code of Federal Regulations 49 CFR 171.15 & 171.16.
- H. Collect, transport, treat and dispose of all accepted regulated medical waste to include:
  - a) Sharps – any object contaminated with a pathogen or that may become contaminated with a pathogen through handling or during transportation and also capable of cutting or penetrating skin or a packaging material. Examples include needles, syringes, scalpels, broken glass, culture slides, broken capillary tubes, broken ridged plastic and exposed ends of dental wires.
  - b) Regulated Medical Waste or Clinical Waste or (Bio) Medical Waste-a waste or reusable material derived from the medical treatment of an animal or human, which includes the production and testing of biological products.
- I. Collect, transport, treat and dispose of all accepted medical waste which must be identified and segregated for incineration to include:
  - a) Trace chemotherapy contaminated waste – Resource Conservation & Recovery Act (RCRA) empty drug vials, syringes, and needles, spill kits, IV tubing and bags, contaminated gloves, gowns and related materials as defined in applicable laws, rules, regulations or guidelines.
  - b) Pathological Waste – Human or animal body parts, organs, tissues and surgical specimen (decanted of formaldehyde, formalin or other preservatives as required by hazardous waste rules).
  - c) Non-RCRA Pharmaceuticals – Must be characterized and certified as non-RCRA hazardous material by the generator. Excludes all DEA scheduled drugs, including controlled substances.

The County shall:

- A. Ensure that all County personnel are properly trained in the certified procedures for the packaging and documentation of transported regulated medical waste.
- B. Ensure that all County personnel understand the rules regarding proper identification, classification, segregation and packaging of regulated medical waste.
- C. Be solely responsible for properly segregating, packaging and labeling of regulated medical waste for transport.

## **2. COMPENSATION, INVOICING, AND SET-OFF**

- A. In consideration of its obligations under this Agreement, County shall pay Contractor as follows:
  - 1) County shall pay to the Contractor in full payment for services satisfactorily performed and all costs and expenses shall be in accordance with Exhibit A.
  - 2) The total amount payable to the Contractor under this Agreement shall not exceed \_\_\_\_\_ (\$\_\_\_\_\_) exclusive of gross receipts tax. Any New Mexico gross receipts tax levied on the amounts payable under this Agreement shall be paid by the County to the Contractor.
  - 3) This amount is a maximum and not a guarantee that the work and services assigned to be performed by the Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. The Contractor shall notify the County when the services provided under this Agreement reach the total compensation amount.
- B. Contractor shall submit a written request for payment to County whenever payment is due under this Agreement. Within fifteen (15) days of County's receipt of the written request, County shall issue a written certification of complete or partial acceptance or rejection of the contractual items or services for which payment is sought. Contractor acknowledges and agrees that County may not make any payment hereunder unless and until it has issued a written certification accepting the contractual items or services. Within thirty (30) days of the issuance of a written certification accepting the contractual items or services, County shall tender payment for the accepted items or services. In the event County fails to render payment within thirty (30) days of the written certification accepting the items or services, County shall pay late payment

charges of one and one-half percent (1.5%) per month, until the amount due is paid in full.

- C. In the event Contractor breaches this Agreement, County may, without penalty, withhold any payments due Contractor for the purpose of set-off until such time as County determines the exact amount of damages it suffered as a result of the breach.
- D. Payment under this Agreement shall not foreclose the right of County to recover excessive or illegal payment.

### **3. EFFECTIVE DATE AND TERM**

This Agreement shall, upon due execution by all parties, become effective as of the date first written above and shall terminate one year later unless earlier terminated pursuant to **Section 5. TERMINATION** or **6. APPROPRIATIONS AND AUTHORIZATIONS** of this Agreement. The County reserves the option of establishing a three (3) year contract with a one (1) year renewal period for no more than a total of four (4) years. The renewal is dependent on the Contractor's performance of services. In no case will the contract, including any and all renewals thereof, exceed a total of four (4) years in duration from the date of the initial Agreement. The County will exercise this option by submitting a written notice to the Contractor in no less than sixty (60) days prior to the expiration of the initial term of this Agreement.

### **4. ADDITIONAL SERVICES**

- A. The parties agree that all tasks set forth in Paragraph 1, **SCOPE OF WORK** of this Agreement, shall be completed in full, to the satisfaction of the County, for the amount set forth in Section 2, **COMPENSATION, INVOICING, AND SET-OFF**, of this Agreement, and for no other cost, amount, fee, or expense.
- B. The County may from time-to-time request changes in the Scope of Work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the County and the Contractor, shall be incorporated in written amendments to this Agreement.

### **5. TERMINATION**

- A. Termination of Agreement for Cause. Either party may terminate the Agreement based upon any material breach of this Agreement by the other party. The non-breaching party shall give the breaching party written notice of termination specifying the grounds for the termination. The termination shall be effective thirty (30) days from the breaching party's receipt of the notice of termination, during which time the breaching party shall have the right to cure the breach. If however, the breach cannot with due diligence be cured with thirty (30) days, the breaching party shall have a reasonable time to cure the breach, provided that, within thirty (30)

days of its receipt of the written notice of termination, the breaching party began to cure the breach and advised the non-breaching party in writing that it intended to cure.

- B. Termination for Convenience of County. County may, in its discretion terminate this Agreement at any time for any reason by giving Contractor written notice of termination. The notice shall specify the effective date of termination, which shall not be less than fifteen (15) days from Contractor's receipt of the notice. County shall pay Contractor for acceptable work, determined in accordance with the requirements set forth in this Agreement, performed before the effective date of the termination but shall not be liable for any work performed after the effective date of termination.

## **6. APPROPRIATIONS AND AUTHORIZATIONS**

Such termination shall be without penalty to county, and County shall have no duty to reimburse Contractor for expenditures made in the performance of this Agreement. County is expressly not committed to expenditures of any funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by the County. County's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by Contractor in any way or forum, including a lawsuit.

## **7. INDEPENDENT CONTRACTOR**

Contractor and its agents and employees are independent contractors and are not employees or agents of County. Accordingly, Contractor and its agents and employees shall not accrue leave, participate in retirement plans, insurance plans, or liability bonding, use County vehicles, or participate in any other benefits afforded to employees of County. Except as may be expressly authorized elsewhere in this Agreement, Contractor has no authority to bind, represent, or otherwise act on behalf of County and agrees not to purport to do so.

## **8. ASSIGNMENT**

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the advance written approval of the County. Any attempted assignment or transfer without County's advance written approval shall be null and void and without any legal effect.

## **9. SUBCONTRACTING**

Contractor shall not subcontract or delegate any portion of the services to be performed under this Agreement without the advance written approval of County. Any attempted subcontracting or delegating without County's advance written approval shall be null and void and without any legal effect.

## **10.PERSONNEL**

- A. All work performed under this Agreement shall be performed by the Contractor or under its supervision.
- B. Contractor represents that it has, or will secure at its own expense, all personnel required to discharge its obligations under this Agreement. Such personnel (i) shall not be employees of or have any contractual relationships with County and (ii) shall be fully qualified and licensed or otherwise authorized or permitted under federal, state, and local law to perform such work.

## **11.RELEASE**

Upon its receipt of all payments due under this Agreement, Contractor releases County, its Elected Officials, officers, agents and employees from all liabilities, claims, and obligations whatsoever arising from or under or relating to this Agreement.

## **12.CONFIDENTIALITY**

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without prior approval from the County.

## **13.PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHTS**

- A. County has the unrestricted right to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, or other material prepared under or pursuant to this Agreement.
- B. Contractor acknowledges and agrees that any material produced in whole or in part under or pursuant to this Agreement is a work made for hire. Accordingly, to the extent that any such material is copyrightable in the United States or in any other country, County shall own any such copyright.

## **14. CONFLICT OF INTEREST**

Contractor represents that it has no and shall not require any interest, direct or indirect, that would conflict in any manner or degree with the performance of its obligations under this Agreement.

## **15. NO ORAL MODIFICATIONS; WRITTEN AMENDMENTS REQUIRED**

This Agreement may not be modified, altered, changed, or amended orally but, rather, only by an instrument in writing executed by the parties hereto. Contractor specifically

acknowledges and agrees that County shall not be responsible for any changes to Section 1, "SCOPE OF WORK", of this Agreement unless such changes are set forth in a duly executed written amendment to this Agreement.

#### **16. ENTIRE AGREEMENT; INTEGRATION**

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such agreements, covenants and understandings have been merged into this written Agreement. No prior or contemporaneous agreement, covenant or understandings verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

#### **17. NOTICE OF PENALTIES**

The Procurement Code, Section 13-1-28 through 13-1-199 NMSA 1978 imposes civil and criminal penalties for its violation. In addition, New Mexico criminal statutes felony penalties for bribes, gratuities, and kickbacks.

#### **18. EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE**

- A. Contractor agrees to abide by all Federal, State, and local laws, ordinances, and rules and regulations pertaining to equal opportunity and unlawful discrimination. Without in any way limiting the foregoing general obligation, Contractor specifically agrees not to discriminate against any person with regard to employment with Contractor or participation in any program or activity offered pursuant to this Agreement on the grounds of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap, serious medical condition, spousal affiliation, sexual orientation, or gender identity.
- B. Contractor acknowledges and agrees that failure to comply with this Section shall constitute a material breach of this Agreement.

#### **19. COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW**

- A. In performing its obligations hereunder, Contractor shall comply with all applicable laws, ordinances, and regulations.
- B. Contractor shall comply with the requirements of Santa Fe County Ordinance 2014-1 (Establishing a Living Wage.)
- C. This Agreement shall be construed in accordance with the substantive laws of the State of New Mexico, without regard to its choice of law rules.

## 20.RECORDS AND INSPECTIONS

- A. To the extent their books and records relate to (i) their performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to County as part of the procurement process, Contractor agrees to (i) maintain such books and records during the term of this Agreement for a period of six (6) years from the date of final payment under this Agreement; (ii) allow County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with generally accepted accounting principles ("GAAP").
- B. To the extent their books and records relate to (i) their performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to County as part of the procurement process, Contractor also agrees to require any subcontractor it may hire to perform its obligations under this Agreement to (i) maintain such books and records during the term of this Agreement and for a period of six (6) years from the date of final payment under the subcontract:(ii) to allow county or its designee to audit such books and records at reasonable times and upon reasonable not notice; and (iii) to keep such books and records in with GAAP.

## 21.INDEMNIFICATION

- A. Contractor shall defend, indemnify, and hold harmless County and its Elected Officials, agents, and employees from any losses, liabilities, damages, demands, suits causes of action, judgments, costs or expenses (including but not limited to court costs and attorneys' fees) resulting from or directly or indirectly arising out of Contractor's performance or non-performance of its obligations under this Agreement, including but not limited to Contractor's breach of any representation or warranty made herein.
- B. County shall have the right to approve any counsel retained by Contractor to defend any demand, suit, or cause of action in which County is named, such approval not to be unreasonably withheld. Contractor agrees (i) that County shall have the right to control and participate in the defense of any such demand, suit, or cause of action concerning matters that relate to the County and (ii) that such suit will not be settled without County's consent, such consent not to be unreasonably withheld. If in County's judgment, a conflict exists between the interests of County and Contractor such demand, suit, or cause of action, County may retain its own counsel, whose fees shall be paid by Contractor.
- C. Contractor's obligations under this section shall not be limited by the provisions of any insurance policy Contractor is required to maintain under this Agreement.

## **22.SEVERABILITY**

If any term or condition of this Agreement shall be held invalid or non-enforceable by any court of competent jurisdiction, the remainder of this Agreement shall not be affected and shall be valid and enforceable to the fullest extent of the law.

## **23.NOTICES**

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the County:                      Santa Fe County  
   Office of the County Attorney  
   102 Grant Avenue  
   Santa Fe, New Mexico 87501

To the Contractor:

## **24.CONTRACTOR’S REPRESENTATIONS AND WARRANTIES**

- A. It is corporation duly organized and in good standing under the laws of the state of New Mexico.
- B. This Agreement has been duly authorized by Contractor, the person executing this Agreement has authority to do so, and once executed by Contractor, this Agreement shall constitute a binding obligation of Contractor.
- C. This Agreement and Contractor’s obligations hereunder do not conflict with Contractor’s articles of incorporation or by-laws or any corporate resolution adopted by Contractor.

## **25.FACSIMILE SIGNATURES**

The parties hereto agree that a facsimile signature has the same force and effect as an original for all purposes.

## **26.LIMITATION OF LIABILITY**

County’s liability to Contractor for any breach of this Agreement by County shall be limited to direct damages and shall not exceed the maximum amount of potential compensation specified in Section 2, “COMPENSATION AND INVOICING”, of this Agreement. In no event shall County be liable to Contractor for special or consequential damages, even if County was advised of the possibility of such damages prior to entering into this Agreement.



## **27.NO THIRD-PARTY BENEFICIARIES**

This Agreement was not intended to and does not create any rights in any persons not a party hereto.

## **28.INSURANCE**

- A. General Conditions. Contractor shall submit evidence of insurance as is required herein. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico
- B. General Liability Insurance, Including Automobile. Contractor shall procure and maintain during the life of this Agreement a comprehensive general liability and automobile insurance policy and liability limits in amounts not less than \$1,000,000 combined single limits of bodily injury, including death, and property damage for any one occurrence. Said policies of insurance shall include coverage for all operations performed for County by contractor; coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment both on and off work; and contractual liability coverage under which this Agreement is an insured contract. County of Santa Fe shall be named additional insured on the policy.
- C. Workers' Compensation Insurance. Contractor shall comply with the provisions of the Workers' compensation Act.
- D. Increased Limits. If, during the life of this Agreement, the Legislature of the State of New Mexico increases the maximum limits of liability under the Tort Claims Act (NMSA 1978, Sections 41-4-1 through 41-4-29, as amended), Contractor shall increase the maximum limits of any insurance required herein.

## **29.PERMITS, FEES, AND LICENSES**

Contractor shall procure all permits and licenses, pay all charges, fees and royalties, and give all notices necessary and incidental to the due and lawful performance of its obligations hereunder.

## **30.NEW MEXICO TORT CLAIMS ACT**

No provision of this Agreement modifies or waives any sovereign immunity or limitation of liability enjoyed by County or its "public employees: at common law or under the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq.

## **31.CAMPAIGN CONTRIBUTION DISCLOSURE FORM**

The Contractor agrees to compute and submit simultaneous and execution of this Agreement a Campaign Contribution Disclosure Form approved by the County.

### **32.SURVIVAL**

The provisions of following paragraphs shall survive termination of this Contract;  
INDEMNIFICATION; RECORDS AND INSPECTION; RELEASE,  
CONFIDENTIALITY, PUBLICATION, REPRODUCTION, AND USE OF  
MATERIAL; COPYRIGHT; COMPLIANCE WITH APPLICABLE LAW; CHOICE  
OF LAW; NO THIRD-PARTY BENEFICIARIES; SURVIVAL.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date first written above.

#### **SANTA FE COUNTY**

\_\_\_\_\_  
Katherine Miller, Manager

\_\_\_\_\_  
Date

#### **APPROVED AS TO FORM**

\_\_\_\_\_  
Gregory S. Shaffer  
Santa Fe County Attorney

\_\_\_\_\_  
Date

#### **FINANCE DEPARTMENT APPROVAL**

\_\_\_\_\_  
Teresa C. Martinez  
Santa Fe County Finance Director

\_\_\_\_\_  
Date

#### **CONTRACTOR:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Title

**FEDERAL IDENTIFICATION:** \_\_\_\_\_